


Exhibit 65

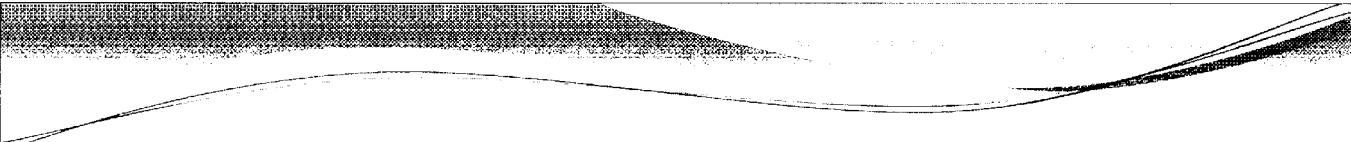
**PowerPoint – EEOC – what
does it mean to me**

EEOC---What does it mean to me?



*"We promote Equality of
Opportunity in the Workplace and
enforce Federal laws prohibiting
Employment Discrimination."*

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- The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. It is also illegal to discriminate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

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- “The EEOC has the authority to investigate charges of discrimination against employers who are covered by the law. Our role in an investigation is to fairly and accurately assess the allegations in the charge and then make a finding. If we find that discrimination has occurred, we will try to settle the charge. If we aren't successful, we have the authority to file a lawsuit to protect the rights of individuals and the interests of the public. We do not, however, file lawsuits in all cases where we find discrimination.”

Laws Covered by EEOC

- Title VII of the Civil Rights Act 1964
- The Pregnancy Discrimination Act
- The Equal Pay Act of 1963
- The Age Discrimination in Employment Act of 1967
- Title I of the Americans with Disabilities Act of 1990
- Sections 102 and 103 of the Civil Rights Act of 1991
- Sections 501 and 505 of the Rehabilitation Act of 1973
- The Genetic Information Act of 2008 (GINA)



Title VII of the Civil Rights Act

- This law makes it illegal to discriminate against someone on the basis of race, color, religion, national origin, or sex. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The law also requires that employers reasonably accommodate applicants' and employees' sincerely held religious practices, unless doing so would impose an undue hardship on the operation of the employer's business.

Discrimination based on Race or Color

- Race discrimination involves treating a person unfavorably because he or she is of a certain race or because of personal characteristics associated with race such as hair texture, skin color, or certain facial features.
- Color discrimination involves treating a person unfavorably because of skin color complexion.
- Race/color discrimination also can involve treating a person unfavorably because the person is married to or associates with a person of a certain race or color.

Discrimination based on Religion, Ethnicity, or Nation of Origin

- Religious discrimination involves treating a person unfavorably because of his or her religious beliefs. Title VII protects not only people who belong to traditional, organized religions such as Buddhism, Christianity, Hinduism, Islam, and Judaism, but also others who have sincerely held religious, ethical, or moral beliefs.
- Unless it would be an undue hardship, an employer must reasonably accommodate an employee's religious beliefs or practices. This applies to schedule changes or leave for religious observances, as well as dress or grooming practices that an employee has for religious reasons, or wearing certain hairstyles or facial hair.



Discrimination based on Sex

- Sex discrimination involves treating a person unfavorably because of that person's sex.
- Discrimination against an individual because of gender identity, including transgender status, or because of sexual orientation is discrimination because of sex in violation of Title VII.
- Harassment can include sexual harassment, unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature.
- Harassment does not have to be of a sexual nature, and can include offensive remarks about a person's sex.

The Pregnancy Discrimination Act

- This law amended Title VII to make it illegal to discriminate against a woman because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.





Equal Pay Act of 1963

- This law makes it illegal to pay different wages to men and women if they perform equal work in the same workplace. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

Age Discrimination Act in Employment of 1967

- This law protects people who are 40 or older from discrimination because of age. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

Title I of the Americans with Disabilities Act of 1990

- This law makes it illegal to discriminate against a qualified person with a disability in the private sector and in state and local governments. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The law also requires that employers reasonably accommodate the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless doing so would impose an undue hardship on the operation of the employer's business.

Sections 102 & 103 of the Civil Rights Act

- This law amends Title VII and the ADA to permit jury trials and compensatory and punitive damage awards in intentional discrimination cases.



Sections 501 & 505 of the Rehabilitations Act of 1973

- This law makes it illegal to discriminate against a qualified person with a disability in the federal government. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The law also requires that employers reasonably accommodate the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless doing so would impose an undue hardship on the operation of the employer's business.

GINA: Genetic Information Nondiscrimination Act of 2008

- *Effective - November 21, 2009.*
- This law makes it illegal to discriminate against employees or applicants because of genetic information. Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease, disorder or condition of an individual's family members (i.e. an individual's family medical history). The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

It Starts with the Interview...

- There are only 5 specific questions that, if asked in a pre-employment interview, constitute a violation of Federal employment laws.

Dis my shock face!



1. National Labor Relations Board

- Any questions designed to restrain or interfere with employees' rights to organize as guaranteed by the National Labor Relations Act.
- The NLRA was enacted by Congress to prohibit employers from discouraging workers organizing or attempting to negotiate a union contract.
- The NLRB has ruled that questions designed to elicit information about organizational activities and contain threats of unfavorable consequences if an employee dealt with a known union organizer.

2. Gender related questions

- The EEOC has interpreted sections 2000e-2 and 2000e(k) to prohibit certain interview questions. § 2000e-2 states in pertinent part: (a) it shall be an unlawful employment practice for an employer- (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin. § 2000e(k) states in pertinent part: *The terms "because of sex" or "on the basis of sex" include but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment related purposes . . . as other persons not so affected but similar in their ability or inability to work.*

3.Disability: Existence or Nature

- Employers may not ask questions that are likely to reveal the existence of a disability before making a job offer (the pre-offer period).
- This prohibition includes verbal inquiries, written questions, and medical examinations.
- This applies to ALL applicants, not just obviously disabled.
- Examples:

Do you require accommodations to perform this job?

How many days were you sick last year?

Have you ever filed worker's comp?

What prescription drugs are you currently taking?

4. Genetic Information Requests

- GINA was enacted, in large part, in recognition of developments in the field of genetics, the decoding of the human genome, and advances in the field of genomic medicine. Genetic tests now exist that can inform individuals whether they may be at risk for developing a specific disease or disorder. But just as the number of genetic tests increase, so do the concerns of the general public about whether they may be at risk of losing access to health coverage or employment if insurers or employers have their genetic information.
- Genetic information includes, for example, information about an individual's genetic tests, genetic tests of a family member, and family medical history. Genetic information does not include information about the sex or age of an individual or the individual's family members, or information that an individual *currently has* a disease or disorder.

5. Polygraphs

- The federal Employee Polygraph Protection Act of 1988 (EPPA) bans polygraph testing as a pre-employment screening device in the private sector.
- The EPPA makes it unlawful for covered employers to ask any prospective or current employee to take a polygraph test or to use the results of such a test in making an employment decision.
- Rights under the EPPA cannot be waived.
- The EPPA is enforced by the Wage and Hour Division of the Department of Labor's Employment Standards Administration.

This is not carte blanche....

- The fact that few types of interview questions are expressly prohibited under the law does not mean you should be casual about the questions you ask job applicants. Be aware that although most interview questions are not illegal, a discriminatory motive behind a question is actionable when the result is a denial of employment. Since it is reasonable to assume that all questions in an interview are asked for some purpose and that hiring decisions are made on the basis of the answers given, any question asked during the interview can be used as circumstantial evidence of a prohibited discriminatory motive.

However.....

- No federal law that protects employees from discrimination requires employers to hire people who are unqualified or unable to perform the job. Therefore, employers who make employment decisions based on the job qualifications and performance criteria will be shielded from claims of discrimination.
- Focus on the performance based criteria that will get the job done when developing interview questions, rather than the fear of lawsuits.

Oh no! We got THAT form! What do we do now???



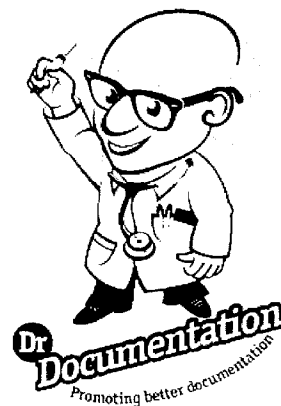
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Let's start with what NOT to do...

- Do **NOT**, under any circumstances, contact the individual and attempt to discuss the issue or try to “talk them out” of it. ***This in and of itself is a direct violation of Title VII rights.***
- Do NOT discuss the filing with the individual's current or former coworkers.
- Do NOT ignore the filing. No matter how “silly” or “stupid” you consider the issue, the WORST thing we can do is not respond.

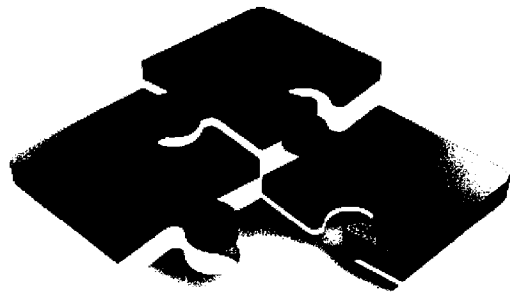
What's our best defense?

- Education!
- Documentation!
- Documentation! Documentation!
- Documentation! Documentation! Documentation!
Documentation! Documentation!



What part do I play?

- Gathering documentation
- Position statement
- Supporting documentation



The #1& #2 Things You NTK!

- Filing EEOC is NOT a “get out of following the rules” card for any employee.
- Being reinstated as a condition of resolving the claim is always offered during the investigation portion of the claim for the sole reason that it kills issues of back pay.

